

## REMARKS

Claims 1-21 are pending in the present Application. Claims 1, 6, 10, 15, and 19 are the independent claims. In the Official Action, dated June 5, 2006, claims 1-21 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,145,089 (Le et al.). Also, claims 10-14, 19-21, and claim 15 were rejected under 35 U.S.C. § 112, ¶ 2.

### *Telephonic Interview, August 21, 2006*

On August 21, 2006, the undersigned conducted a telephonic interview with the Examiner, discussing each of the pending independent claims. Remarks made during the interview are summarized in the discussion below, in the section on “Rejection of Claims 1-21 under 35 U.S.C. § 102(e),” which addresses each of the independent claims.

### *Rejection of Claims 1-21 under 35 U.S.C. § 112, ¶ 2*

Regarding claims 10-14 and 19-21, the Examiner has stated that these claims allegedly omit certain steps, namely, the Examiner has stated: “It is not clear how the client determines the failover server in the failover group” (Office Action, p. 2). The Specification, in the numbered paragraph below, provides the following example:

[0012] **A client preferably operates in failover mode as to an offline server for a predetermined length of time. During the failover mode, the client sends requests for data usually handled by the offline server to the failover server that it selected for the offline server.** Once the predetermined length of time has expired, the client sends its next request for data of the type usually handled by the offline server to this server, to determine if it is back online. If the server is back online, then the failover mode is exited as to this server. If the server is still offline, the client stays in the failover mode for this server for at least another predetermined length of time.

(emphasis added). Thus, to answer the Examiner’s question, the client enters a failover mode, and, during the failover mode the client sends requests for data to the failover server that **it selected for the offline server**. Careful attention must be paid to the verb tense: “client **sends** [present tense] request for data ... to the failover server that it **selected** [past tense] for the offline server.” In short, the client determines the failover

server in the failover group because it had selected the server as a failover server (hence the use of the past tense verb “selected”).

In light of these remarks, claim 10 does not omit any steps, since it explicitly recites “a failover mode.” Claim 19 has been amended to add the limitation: “wherein the client is in failover mode.”

Regarding claim 15, it was the Applicants’ intent to emphasize the point that this “method [was] performed by a server configured in a failover group...” (preamble) (emphasis added), however, seeing how this attempted clarification resulted in confusion, the Applicants withdraw this last amendment and restore the claims to their previous state. The preamble is clear that the method is performed by a server.

Thus, in light of the above remarks, withdrawal of the rejections for claims 10-14, 19-21, and 15 is respectfully requested.

***Rejection of Claims 1-21 under 35 U.S.C. § 102(e)***

Claims 1, 6, 10, 15, and 19 are the independent claims. The Applicants address each of these claims sequentially.

Regarding claim 1, the Applicants have submitted that Le et al. does not teach or suggest managing notifications from both (a) the clients making requests on the network and (b) from the plurality of servers as to whether the servers are offline (previous Response, p. 7). In the present Office Action, the Applicants have considered the Examiner’s remarks in light of Figs. 3 and 4.

During the aforementioned telephonic interview, the undersigned and the Examiner agreed that claim 1 would overcome Le et al. if claim 1 recited “a master server managing notifications (a) *directly* from one or more clients and (b) from the plurality of servers as to whether servers are offline” (emphasis added). The Applicants have added the term “directly” in order to more clearly recite the disclosed subject matter.

Next, turning to claim 6, the Examiner first observes that “data is inherently partitioned (as Applicant notes in the background of the application, see paragraph 5)” (Office Action, p. 13, ll. 10-11). Second, the Examiner accurately points out that paragraph 5 discloses “[f]or constantly changing data, the data is more typically partitioned across a number of different web servers.” *Id.* Furthermore, during the telephonic interview, the Examiner pointed out that each server in Le et al. caches some partitioned data for other servers that are down to allow for temporary server caching.

After having reflected upon the Examiner’s comments during the telephonic interview, the Applicants believe that the focus of claim 6 should be the limitation of: “a *database* storing data responsive to client requests of any respective type and which is partitioned for caching over the plurality of servers [organized into one or more failover groups]” (claim 6, l. 2 and ll. 6-7). The first database 136 or second database 126 of Le et al. do not have this capability. Both of these databases 136 and 126 support different services of some kind, but Le et al. does not teach either of these databases as having the ability to store data responsive to client requests of *any* respective type *and then* being partitioned for caching over *the plurality* of servers that are *organized into one or more failover groups*. Applicants contend that Le et al. does not teach such a comprehensive database recited in claim 6.

Next, turning to claim 10, the Examiner has noted that “it is not clear how the client can randomly determine another server with which to communicate without a master server or role manager to assist the client in determining the failover server” (Office Action, p. 13, l. 20, p. 14, l. 2). The Applicants point the examiner to the remarks made above addressing the § 112, ¶ 2 rejections. Also, during the telephonic interview, the undersigned and the Examiner discussed this limitation, and an understanding was reached as to how this mechanism works. Applicants submit that in light of the remarks made above, in reference to the § 112, ¶ 2 rejections, claim 10 patentably defines over Le et al.

Next, turning to claim 15, the Applicants reiterate the fact that claim 15 recites a method for performance by a server (as opposed to multiple interacting components). The Office Action relies on more than the actions of a server to allegedly anticipate claim 15. For instance, reference is made to steps fulfilled by a “kernel acting with the heartbeat manager” (instead of a server). During the telephonic interview, the undersigned explained to the Examiner that this claim was performed by a server, as is clearly recited in the preamble. Following this explanation, the undersigned agreed to amend claim 15 in the manner shown above in order to more clearly recite the claimed subject matter.

Finally, turning to claim 19, Le et al. fails to teach “receiving a notification directly from a client that a server may be offline.” The arguments for allowability are similar to that of claim 1. Please see above.

In light of the above remarks, the Applications respectfully request reconsideration and withdrawal of the rejection of claims 1, 6, 10, 15, and 19. Inasmuch as claims 2-5, 7-9, 11-14, 16-18, and 20-21 depend either directly or indirectly from independent claims 1, 6, 10, 15, and 19, respectively, they are believed allowable for the same reasons.

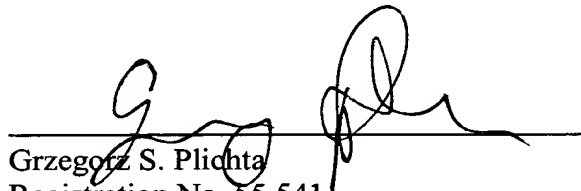
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**PATENT**

### **CONCLUSION**

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Official action, and submit that Claims 1-21 of the application are in condition for allowance. Applicants respectfully request the Examiner acknowledge the drawings filed on March 16, 2001. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

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Grzegorz S. Plichta  
Registration No. 55,541

Woodcock Washburn LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439